

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

<p>ERIC CERVINI, WENDY DAVIS, DAVID GINS, and TIMOTHY HOLLOWAY,</p> <p style="text-align: right;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>ELIAZAR CISNEROS, RANDI CEH, STEVE CEH, JOEYLYNN MESAROS, ROBERT MESAROS, and DOLORES PARK,</p> <p style="text-align: right;">Defendants.</p>	<p>Civil Action No. 1:21-cv-00565-RP</p> <p>Hon. Robert Pitman</p>
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REPLY IN SUPPORT OF PLAINTIFF ERIC CERVINI’S MOTION FOR VOLUNTARY DISMISSAL WITH PREJUDICE AND IN SUPPORT OF PLAINTIFF ERIC CERVINI’S SEALED MOTION FOR LEAVE TO FILE UNDER SEAL PLAINTIFF ERIC CERVINI’S MOTION FOR VOLUNTARY DISMISSAL WITH PREJUDICE

On July 11, 2023, Plaintiff Eric Cervini¹ file his Motion for Voluntary Dismissal With Prejudice (the “Motion”). Dkt. 414. The Motion respectfully requested the Court dismiss Dr. Cervini’s claims with prejudice. Defendants’ response to the Motion was due “not later than 14 days after the filing of the motion[.]” W.D. Tex. Local R. CV-7(D)(2).

No Defendant has filed an opposition to the Motion, nor has any Defendant requested additional time to do so. Indeed, the only filing in Reply to the Motion specifically withdrew prior opposition to the Motion. Dkt. 434 at 1 (“[T]he Mesaroses are not opposed to Cervini’s request

¹ Dr. Cervini’s name will be removed from the case caption if the Motion for Voluntary Dismissal, Dkt. 414, is granted and he is dismissed.

that his claims be dismissed with prejudice[.]”² As Defendants have either stated their non-opposition (*id.*; Dkt. 414 at 1) or failed to respond to the Motion “within the time period prescribed by th[e] rule, the court may grant the motion as unopposed.” W.D. Tex. Local R. CV-7(D)(2). Plaintiffs therefore respectfully request that the Court consider the Motion unopposed and order the entry of Plaintiff’s proposed order granting Plaintiff’s Motion. *See* Dkt. 414-5.

Plaintiffs also respectfully request that the Court grant Plaintiff Eric Cervini’s Sealed Motion For Leave to File Under Seal Plaintiff Eric Cervini’s Motion for Voluntary Dismissal With Prejudice (the “Sealing Motion”). Dkt. 413. Defendants Joeylynn Mesaros and Robert Mesaros (together the “Mesaros Defendants”) filed an opposition to the Sealing Motion on July 25, 2024. Dkt. 434. The Mesaros Defendants argue that “all of the material [Dr.] Cervini seeks to seal [] was already in the public domain . . . and/or already in the possession of Defendants and their counsel” and that it is thus “excluded from the reach of the protective order[.]” *Id.* at 1. However, Dr. Cervini’s reaction to those materials and his reasons for withdrawal are in no way public, and the Protective Order permits a party to designate as classified “information that the party in good faith believes in fact is confidential” including “sensitive information that, if not restricted . . . may subject the producing or disclosing person to . . . harassment[.]” Dkt. 82 at 3. Dr. Cervini has well-founded reasons to believe that these documents are likely to subject him to harassment and he should thus not be required to publicly reproduce them on the docket, nor to publicly disclose his reaction to those documents. Plaintiffs thus respectfully request that this Court grant the Sealing Motion.

² Plaintiffs disagree with, and object to, the Mesaros Defendants’ assertions regarding their “ability to seek fees, costs, and other sanctions for filing this frivolous litigation.” Dkt. 434 at 1. Because the Mesaros Defendants have not yet sought such relief, Plaintiffs do not believe that responding to those arguments here is appropriate. Plaintiffs, however, reserve all rights.

Respectfully submitted,

/s/ John Paredes

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CERTIFICATE OF SERVICE

I hereby certify that on July 26, 2024, a true and correct copy of the foregoing has been served on all counsel of record and Defendants Steve Ceh and Randi Ceh by the Electronic Case File System of the Western District of Texas in compliance with the Federal Rules of Civil Procedure and by email as agreed by the parties.

DATED: July 26, 2024

Respectfully submitted,

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